

31. (Amended) The wet wipe of claims [1,] 2 or 3; wherein the liquid is distributed within the layers; and the liquid comprises at least one material selected from the group of materials including preservatives, fragrances, emollients, humectants, detergents and soaps.

36. (Amended) A method for preparing a wet-wipe according to claims [1] 2 or 3, wherein the wet-wipe has at least one non-woven elastic layer; and at least one non-woven gatherable layer comprising bonding the elastic and gatherable layers at at least two points.

### **REMARKS**

Applicant has carefully reviewed and considered the Office Action mailed on August 29, 2002, and the documents cited therewith.

Claim 1 and 32 are cancelled and claims 2-4, 10, 12, 18, 25, 28, 31 and 36 are amended; as a result, claims 2-31 and 33-36 are now pending in this application. Claims 2 and 3 are amended to correct a clerical error, to remove a repeating clause. Claims 4, 18, 25, 28, 31 and 36 are amended to correct their dependencies. Claim 10 is amended to clarify the subject matter applicants regard as their invention by substitution of the term -- fibers -- in place of the term "filaments." This is supported by the specification at page 7, lines 14-16. No new subject matter is added. The amendment to claim 10 is made to correct a minor clerical error. The amendment was not made for a reason related to patentability. Thus, the Amendment does not create estoppel, which would limit the claims. Accordingly, Applicant is entitled to a full range of equivalents upon issuance of the instant claims.

### **§112 Rejection of the Claims**

Claim 4 was rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner asserts that the terms elastic film and elastic layer in claim 4 contradict the phrase non-woven elastic layer from claim 1. This rejection is respectfully traversed.

Claim 4 recites that the elastic layer is an elastic film, an elastic web, elastic fibers and any combination thereof. Applicants note that claim 4 does not contradict claim 1 because the term "the elastic layer" is defined as an elastic film, an elastic web, elastic fibers or any combination thereof, at page 7 lines 11-12 of the specification. This definition supports the terms "elastic film," "elastic fibers," and "elastic web" in claim 4. Accordingly, reconsideration and withdrawal of the rejection under 35 U.S.C. §112 is respectfully requested.

Claim 10 was also rejected due to insufficient antecedent basis for the limitation "the elastic filaments."

Claim 10 has been amended to clarify the subject matter applicants' regard as their invention and provide antecedent basis for the term "fibers" by substitution of this term for the term "filaments" to clarify the claim. This is supported by the specification at page 7, lines 14-16. It respectfully requested that the rejection under 35 U.S.C. § 112 be withdrawn.

#### §102 Rejection of the Claims

Claims 1-8, 11, 12, 14-29 and 31-36 were rejected under 35 USC §102(b) as being anticipated by Jackson *et al.* (U.S. 4,741,944). The Examiner asserts that because Jackson discloses the elastic sheet attached to a non-woven web and a liquid distributed in the composite material, the material of Jackson inherently meets the limitations of the claims. This rejection is respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131.

Claims 2-8, 11, 12, 14-29 and 31-36 recite a wet-wipe that includes a non-woven elastic layer and a gatherable layer. In addition, the claimed composite recite a cup crush and cup crush to density ratio for the composite elastic material within specified ranges.

Jackson does not disclose a composite elastic material with outer a non-elastic non-woven layer that meets the limitations required by the instant claims. Applicants have tested the product prepared according to the Jackson disclosure. The Jackson material tested had a density of 0.035 g/cm<sup>3</sup> and a basis weight of 72 g/M<sup>2</sup>. In addition, the Jackson material had a cup crush of 186.5 g per cm. Therefore, the cup crush to density ratio of the Jackson material was 5328.6

cm<sup>2</sup>. Therefore, the Jackson material does not meet the limitations of the instant claims and does not anticipate the pending claims.

Should the Examiner require that the information provided herein be presented in declaration form, Applicants will file a declaration under 37 C.F.R. §1.132 with results, from the comparison of the Jackson material, referred to herein.

Accordingly, it is respectfully requested that the rejection of the claims under 35 USC §102(b) be withdrawn.

### §103 Rejection of the Claims

Claims 9-11 were rejected under 35 USC §103(a) as being unpatentable over Jackson *et al.* in view of Sabee (U.S. 5,200,246). The Examiner alleges that one of ordinary skill in the art would be motivated to combine the disclosures of Jackson's multilayer material with Sabee's parallel elastic fibers to improve the web's elasticity. This rejection is respectfully traversed.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. M.P.E.P. §2142.

Applicants respectfully submit that the claimed compositions recited in claims 9-11 are not *prima facie* obvious over the compositions of in Jackson, in view of Sabee. Jackson does not disclose an elastic web wherein the elastic fibers are substantially parallel. Sabee discloses stabilized continuous filaments intermingled with melt-blown fibers in-between and around the continuous filaments. It is respectfully submitted that one skilled in the art would have had no motivation to combine the cited disclosures as suggested by the Examiner.

Further, there is no suggestion or motivation in the cited documents to the conclusion that the modification of Jackson with Sabee would provide at a wet-wipe material having the low cup crush and density as presently claimed. Sabee discloses the use of intermingling of melt

blown fibers to form elastic webs. The claimed wet-wipes possess properties that could not have been predicted based on the combined disclosures of the cited documents. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 was rejected under 35 USC §103(a) as being unpatentable over Jackson *et al.* in view of Georger *et al.* (U.S. 5,508,102). This rejection is respectfully traversed.

The Examiner alleges that one of ordinary skill in the art at the time the invention was made would be motivated to combine the disclosures of Jackson and Georger to replace the non-elastic webs of Jackson *et al.* with the matrix of polyethylene meltblown fibers and fibrous pulp fibers to improve the abrasion resistance of the resulting elastic composite. This rejection is respectfully traversed.

The requirements for a *prima facie* case of obviousness are stated above. Georger discloses process conditions to produce a fibrous non-woven web with a polymer rich surface that improves abrasion resistance. The disclosure requires that the concentration of meltblown fibers adjacent to each exterior surface of the non-woven layer is about 70-90%, by weight and the concentration of the meltblown fibers in the interior portion is less than about 35%, by weight.

Applicants respectfully submit that there is no suggestion to combine the disclosure of Jackson with the disclosure of Georger to obtain the claimed invention. The instant specification discloses, a wet-wipe possessing properties that could not have been predicted based on the combined disclosures of the cited documents.

Further, there is no reason that one skilled in the art would expect that by combining the abrasion resistant non-woven web of Georger in place of the polymeric web of Jackson would provide a reasonable expectation of success, *i.e.*, a composite elastic material that would meet the limitations of the instant claims. It is respectfully submitted that the claimed wet-wipes are not obvious over the combined disclosures of Jackson and Georger. Accordingly, withdrawal of this rejection is respectfully requested.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (612-373-6968) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date Dec 30, 2002

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 30<sup>th</sup> day of December, 2002.

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